

103D CONGRESS  
1ST SESSION

# S. 1592

To improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

---

## IN THE SENATE OF THE UNITED STATES

OCTOBER 27 (legislative day, OCTOBER 13), 1993

Mr. DORGAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

---

## A BILL

To improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fiscal Accountability  
5       and Intergovernmental Reform Act” (“FAIR Act”).

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds and declares the  
3 following:

4 (1) Federal legislation and regulatory require-  
5 ments impose burdens on State and local resources  
6 to implement federally mandated programs without  
7 fully evaluating the costs to State and local govern-  
8 ments associated with compliance with those require-  
9 ments and oftentimes without provision of adequate  
10 Federal financial assistance. Such Federal legislative  
11 and regulatory initiatives—

12 (A) force State and local governments to  
13 utilize scarce public resources to comply with  
14 Federal mandates;

15 (B) prevent these resources from being  
16 available to meet local needs; and

17 (C) detract from the ability of State and  
18 local governments to establish local priorities  
19 for use of local public resources.

20 (2) Federal legislation and regulatory programs  
21 can result in inefficient utilization of economic re-  
22 sources, thereby reducing the pool of resources  
23 available—

24 (A) to enhance productivity, and increase  
25 the quantity and quality of goods and services  
26 produced by the American economy; and

1 (B) to enhance international competitive-  
2 ness.

3 (3) In implementing Congressional policy, Fed-  
4 eral agencies should, consistent with the require-  
5 ments of Federal law, seek to implement statutory  
6 requirements, to the maximum extent feasible, in a  
7 manner that minimizes—

8 (A) the inefficient allocation of economic  
9 resources;

10 (B) the burden that such requirements im-  
11 pose on use of local public resources by State  
12 and local governments; and

13 (C) the adverse economic effects of such  
14 regulations on productivity, economic growth,  
15 full employment, creation of productive jobs,  
16 and international competitiveness of American  
17 goods and services.

18 (b) PURPOSES.—The purposes of this Act are to—

19 (1) assist Congress in consideration of proposed  
20 legislation establishing or revising Federal programs  
21 so as to assure that, to the maximum extent prac-  
22 ticable, legislation enacted by Congress will—

23 (A) minimize the burden of such legislation  
24 on expenditure of scarce local public resources  
25 by State and local governments;

1 (B) minimize inefficient allocation of eco-  
2 nomic resources; and

3 (C) reduce the adverse effect of such  
4 legislation—

5 (i) on the ability of State and local  
6 governmental entities to use local public  
7 resources to meet local needs and to estab-  
8 lish local priorities for local public re-  
9 sources; and

10 (ii) on allocation of economic re-  
11 sources, productivity, economic growth, full  
12 employment, creation of productive jobs,  
13 and international competitiveness; and

14 (2) require Federal agencies to exercise discre-  
15 tionary authority and to implement statutory re-  
16 quirements in a manner that, consistent with fulfill-  
17 ment of each agency's mission and with the require-  
18 ments of other laws, minimizes the impact regula-  
19 tions affecting the economy have on—

20 (A) the ability of State and local govern-  
21 mental entities to use local public resources to  
22 meet local needs; and

23 (B) the allocation of economic resources,  
24 productivity, economic growth, full employment,



1 creation of productive jobs, and international  
2 competitiveness of American goods and services.

### 3 **TITLE I—LEGISLATIVE REFORM**

#### 4 **SEC. 101. REPORTS ON LEGISLATION.**

##### 5 (a) REPORT REQUIRED.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), when a committee of the Senate or House  
8 of Representatives reports a bill or resolution of a  
9 public character (not including a resolution of ratifi-  
10 cation of a treaty) to its House that mandates un-  
11 funded requirements upon State or local govern-  
12 ments or the private sector, the report accompanying  
13 the bill or resolution shall contain an analysis, pre-  
14 pared after consultation with the Director of the  
15 Congressional Budget Office, detailing the effect of  
16 the new requirements on—

17 (A) State and local government expendi-  
18 tures necessary to comply with Federal man-  
19 dates;

20 (B) private businesses, including the eco-  
21 nomic resources required annually to comply  
22 with the legislation and implementing regula-  
23 tions; and

24 (C) economic growth and competitiveness.

1           (2) EXCEPTION.—Paragraph (1) shall not  
2       apply to any bill with respect to which the Director  
3       of the Congressional Budget Office certifies in writ-  
4       ing to the chairman of the committee reporting the  
5       legislation that the estimated costs to State and  
6       local governments and the private sector of imple-  
7       mentation of such legislation during the first 3 years  
8       will not exceed \$50,000,000 in the aggregate and  
9       during the first 5 years will not exceed  
10      \$100,000,000 in the aggregate.

11       (b) DUTIES AND FUNCTIONS OF CONGRESSIONAL  
12 BUDGET OFFICE.—The Director of the Congressional  
13 Budget Office shall prepare for each bill or resolution of  
14 a public character reported by any committee of the House  
15 of Representatives or of the Senate, an economic analysis  
16 of the effects of the bill or resolution, satisfying the re-  
17 quirements of subsection (a). The analysis prepared by the  
18 Director of the Congressional Budget Office shall be in-  
19 cluded in the report accompanying such bill or resolution.

20       (c) LEGISLATION SUBJECT TO POINT OF ORDER.—  
21 A bill or resolution is subject to a point of order against  
22 consideration of the bill or resolution by the House of Rep-  
23 resentatives or the Senate (as the case may be) if the bill  
24 or resolution is reported for consideration by the House

1 of Representatives or the Senate unaccompanied by the  
2 analysis required by this section.

3 **SEC. 102. EXERCISE OF RULEMAKING POWERS.**

4 The provisions of this title are enacted by the  
5 Congress—

6 (1) as an exercise of the rulemaking power of  
7 the House of Representatives and the Senate, re-  
8 spectively, and as such they shall be considered as  
9 part of the rules of each House, respectively, and  
10 such rules shall supersede other rules only to the ex-  
11 tent that they are inconsistent therewith; and

12 (2) with full recognition of the constitutional  
13 right of either House to change such rules (so far  
14 as relating to such House) at any time, in the same  
15 manner, and to the same extent as in the case of  
16 any other rule of such House.

17 **SEC. 103. EFFECTIVE DATE.**

18 This title shall apply to any bill or resolution intro-  
19 duced in the House of Representatives or the Senate after  
20 the date of enactment of this Act.

1 **TITLE II—FEDERAL INTERGOV-**  
2 **ERNMENTAL RELATIONS**

3 **SEC. 201. INTERGOVERNMENTAL AND ECONOMIC IMPACT**  
4 **ASSESSMENT.**

5 (a) REQUIREMENT.—When an agency publishes a  
6 general notice of proposed rulemaking for any proposed  
7 rule, the notice of proposed rulemaking shall be accom-  
8 panied by an Intergovernmental and Economic Impact As-  
9 sessment. Such Assessment shall be published in the Fed-  
10 eral Register at the time of the publication of the general  
11 notice of proposed rulemaking for the rule.

12 (b) CONTENT.—Each Intergovernmental and Eco-  
13 nomic Impact Assessment required under this section shall  
14 contain—

15 (1) a description of the reasons why action by  
16 the agency is being considered;

17 (2) a succinct statement of the objective of, and  
18 legal basis for, the proposed rule;

19 (3) a good-faith estimate, based on data readily  
20 available to the agency, of the effect the proposed  
21 rule will have on the expenditure of State or local  
22 public resources by State and local governments; and

23 (4) a good-faith estimate, based on data readily  
24 available to the agency, or a description of the effect  
25 the proposed rule will have on—



1 (A) the allocation of economic resources;  
2 and

3 (B) productivity, economic growth, full em-  
4 ployment, creation of productive jobs, and inter-  
5 national competitiveness of American goods and  
6 services.

7 **SEC. 202. INTERGOVERNMENTAL AND ECONOMIC IMPACT**  
8 **STATEMENT.**

9 (a) REQUIREMENT.—When an agency promulgates a  
10 final rule, the agency shall prepare an Intergovernmental  
11 and Economic Impact Statement. The Intergovernmental  
12 and Economic Impact Statement shall contain—

13 (1) a succinct statement of the need for, and  
14 the objectives of, such rule;

15 (2) a summary of the issues raised by the pub-  
16 lic comments in response to the publication by the  
17 agency of the Intergovernmental and Economic Im-  
18 pact Assessment prepared for the rule, a summary  
19 of the agency's evaluation of such issues, and a  
20 statement of any changes made in the proposed rule  
21 as a result of such comments;

22 (3) a good-faith estimate, based on information  
23 readily available to the agency, of the effect the rule  
24 will have on the expenditure of State or local public  
25 resources by State and local governments; and

1           (4) a good-faith estimate, based on information  
2       readily available to the agency, or a description of  
3       the effect the rule will have on productivity, eco-  
4       nomic growth, full employment, creation of produc-  
5       tive jobs, and international competitiveness of Amer-  
6       ican goods and services.

7       (b) AVAILABILITY.—The agency shall make copies of  
8       each Intergovernmental and Economic Impact Statement  
9       available to members of the public, and shall publish in  
10      the Federal Register at the time of publication of any final  
11      rule, a statement describing how the public may obtain  
12      copies of such Statement.

13   **SEC. 203. EFFECT ON OTHER LAWS.**

14       The requirements of this title shall not alter in any  
15      manner the substantive standards otherwise applicable to  
16      the implementation by an agency of statutory require-  
17      ments or to the exercise by an agency of authority dele-  
18      gated by law.

19   **SEC. 204. EFFECTIVE DATE.**

20       This title shall apply to any rule proposed and any  
21      final rule promulgated by any agency after the date of the  
22      enactment of this Act.

23   **SEC. 205. DEFINITION.**

24       In this title, the term “agency” has the meaning stat-  
25      ed in section 551(1) of title 5, United States Code.





3 8095 00018104 6